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6 Attorneys for Defendant
THIEN DINH LE
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8 UNITED STATES DISTRICT COURT
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10 FOR THE DISTRICT OF NEVADA

11 UNITED STATES OF AMERICA,)
12)
13 Plaintiff,) Case No.: 2:18-cr-00322-APG-BNW
14)
15 v.)
16 THIEN DINH LE,)
17 Defendant.)
18 _____)

19 **STIPULATION AND ORDER TO CONTINUE SENTENCING HEARING**
(Third Request)

20 IT IS HEREBY STIPULATED AND AGREED, by and between Defendant THIEN
21 LE, by and through his attorney (Richard J. Pocker, Esq. of the law firm of Boies Schiller
22 Flexner LLP), and the Plaintiff UNITED STATES OF AMERICA (hereinafter, “the
23 Government”), by and through its attorney (Assistant United States Attorney Kevin Schiff,
24 Esq.), that the Sentencing Hearing in the present case be continued to a date not more than
25 ninety (90) days from the present date set for sentencing, July 22, 2020.

26 This Stipulation is entered into for the following reasons:

27 1. The present case is currently set for sentencing on July 22, 2020. The present
28 sentencing date was set in the Court’s Minute Order of July 7, 2020 (ECF No. 86) rescheduling

1 the sentencing hearing from July 21, 2020. The Presentence Investigation Report was
2 disclosed on December 6, 2019, in anticipation of the prior February 4th sentencing hearing.
3 Objections to the Presentence Investigation Report were filed on January 14, 2020, in
4 accordance with the Court's order approving a stipulation between the parties. The United
5 States Probation Officer issued a revised Presentence Investigation Report on January 16, 2020.
6 On July 17, 2020, Defendant LE filed his Sentencing Memorandum, and the Government filed
7 its Response on July 20, 2020.

8 2. Given the recommendations of the Presentence Investigation Report, and given
9 the unanticipated complexity of some of the differences between the parties as to calculation of
10 the appropriate Sentencing Guideline range for the present case and the applicability of the
11 statutory "Safety Valve" provisions to Defendant LE's situation, his Sentencing Hearing is an
12 extremely important event in his life, and it can only effectively be conducted in person. An
13 extension of the sentencing date is hereby requested to and including a date no later than ninety
14 (90) days after July 22, 2020. As the Court is painfully aware, the COVID 19 public health
15 crisis continues to have a devastating impact on American society, the world economy, and the
16 functions of the courts. In the Court's Minute Order of July 16, 2020, setting Defendant LE's
17 sentencing for a video hearing on July 22, 2020, the Court made clear that any proceeding
18 going forward on that date would be a video or teleconferencing event, and that a critical
19 hearing such as the sentencing of Defendant LE would require that he consent to proceeding in
20 that manner, as opposed to an in-person hearing in the court room. Given the importance of the
21 imposition of sentence, Defendant LE declines to consent to a video or telephonic sentencing
22 proceeding. He instead desires that his sentencing hearing be continued and postponed to a
23 date and time upon which he can be safely transported to and physically present in the court
24 room to personally advocate and provide information in extenuation and mitigation.

25 3. In addition to the unresolved objections to the Presentence Investigation Report,
26 Defendant LE has filed a Sentencing Memorandum to assist the Court in determining the
27 appropriate sentence to impose. The Government has responded, and also reserves the option
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1 of filing a memorandum setting forth its sentencing arguments, or other suitable pre-sentencing
2 filings.

3 4. Defendant LE is presently detained pending sentencing, and does not object to
4 this extension and continuance given the importance of resolving differences between the U.S.
5 Probation office, the Government and Defendant LE regarding “safety valve eligibility” and
6 other Sentencing Guidelines issues. In fact, granting the present Stipulation will enable him to
7 more adequately prepare for what is anticipated to be a potentially complicated sentencing
8 hearing. The COVID-19 public health crisis is also of concern to him given his vulnerable
9 health status, and he would prefer to wait until the risks attendant to his transportation to Court
10 can be mitigated.

11 5. The additional time requested herein is not sought for purpose of delay, but
12 merely to allow counsel sufficient time within which to complete efforts relevant to making
13 their respective sentencing presentations in person before the Court, in this unexpectedly
14 complicated case, and to protect the medical safety of all participants given the COVID-19
15 public health crisis. The requested extension, in light of the July 22, 2020 sentencing date, will
16 insure that the parties’ preparation is not adversely affected as to disposition of objections to
17 the Presentence Investigation Report and other matters to be addressed at the sentencing
18 hearing.

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1 6. This is the third request to continue the sentencing hearing in the present case, other
2 than rescheduling initiated by the Court.

3 DATED this 21st day of July, 2020.

4 BOIES SCHILLER FLEXNER LLP

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6 By: /s/ Richard J. Pocker

7 RICHARD J. POCKER, ESQ.
Counsel for Thien Dinh Le

NICHOLAS A. TRUTANICH
United States Attorney

By: /s/ Kevin Schiff

KEVIN SCHIFF, ESQ.
Assistant United States Attorney

9 **ORDER**

10 Based on the pending Stipulation of counsel, and good cause appearing,
11 IT IS HEREBY ORDERED THAT the sentencing hearing in the present case
12 be continued to October 28, 2020 at 1:00 p.m. in courtroom 6C.

13 DATED this 21st day of July, 2020.

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16 UNITED STATES DISTRICT JUDGE

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